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Norfolk Southern Corporation
Law Department
Three Commercial Place
Norfolk, Virginia 23510-2191

J. Gary Lane
Senior General Attorney

Writer's Direct Dial Number

(804) 629-2818

November 29, 1990

RECORDATION NO **17098**
DEC 3 1990 -2 15 PM

INTERSTATE COMMERCE COMMISSION

Mr. Sidney L. Strickland, Jr.
Secretary
Interstate Commerce Commission
12th and Constitution Avenue, N.W.
Washington, D. C. 20423

DEC 3 2 12 PM '90
MOTOR OPERATING UNIT

Dear Mr. Strickland:

In accordance with 49 U.S.C. § 11303 and the Commission's Rules, I submit herewith for recording with the Commission four (4) counterparts, properly executed and acknowledged, of the document described below.

This document is a Temporary User Agreement, a primary document, dated as of November 15, 1990.

The names and addresses of the parties to the primary document are as follows:

BAILOR: General Electric Company
2901 East Lake Road
Erie, Pennsylvania 16531

BAILEE: Southern Railway Company
Three Commercial Place
Norfolk, VA 23510

The equipment covered by the document is generally described as follows:

<u>Number of Units</u>	<u>General Description</u>	<u>AAR Symbol</u>	<u>Railroad's Road Numbers (both inclusive)</u>
21	Model Dash 8-40C Diesel Electric Locomotives	C-C	8689-8709

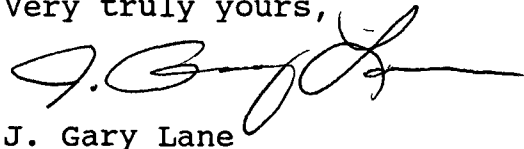
A fee of \$15.00 is enclosed. Please return three of the original counterparts of the document, stamped with the Commission's recordation data, to J. Gary Lane, Norfolk Southern Corporation, Three Commercial Place, Norfolk, Virginia 23510.

Counterparts - Jimmy M. Dawson

A short summary of the document to appear in the index follows:

Temporary User Agreement dated as of November 15, 1990, between General Electric Company, 2901 East Lake Road, Erie, Pennsylvania 16531, Bailor, and Southern Railway Company, Three Commercial Place, Norfolk, Virginia 23510, Bailee, and covering 21 diesel electric locomotives numbered SOU 8689-8709.

Very truly yours,

A handwritten signature in black ink, appearing to read "J. Gary Lane", with a long horizontal flourish extending to the right.

J. Gary Lane

JGL/jad

Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

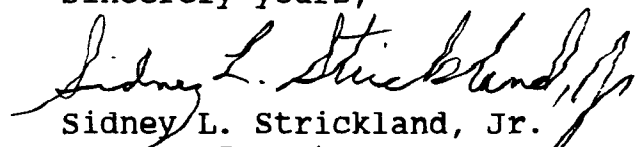
12/3/90

J. Gary Lane
Senior General Attorney
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA.23510-2191

Dear Sirs:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 12/3/90 at 2:15PM , and assigned recordation number(s). 17098.

Sincerely yours,


Sidney L. Strickland, Jr.
Secretary

ASSISTANT NO **17098** FILED 1425

DEC 3 1990 -2 15 PM

INTERSTATE COMMERCE COMMISSION

TEMPORARY USER AGREEMENT

Dated as of November 15, 1990

between

GENERAL ELECTRIC COMPANY

and

SOUTHERN RAILWAY COMPANY

TEMPORARY USER AGREEMENT, dated as of November 15, 1990, between GENERAL ELECTRIC COMPANY, a New York corporation (the "Vendor"), and SOUTHERN RAILWAY COMPANY, a Virginia corporation (the "Railroad").

RECITALS

WHEREAS, Railroad desires to acquire 21 new Dash 8-40C 4,000 H.P. diesel electric locomotives as further described in Schedule A hereto, to bear Railroad's road numbers SOU 8689 through 8709, both inclusive, such locomotives being hereinafter collectively called the "Equipment"; and

WHEREAS, Railroad, by Purchase Order numbered R6PM00, has contracted with Vendor for the manufacture and purchase of the Equipment (the "Purchase Agreement"); and

WHEREAS, the Vendor, under the terms of the Purchase Agreement, is to deliver the Equipment to Railroad as indicated in Schedule A, freight charges, if any, prepaid and included in Vendor's invoice; and

WHEREAS, inasmuch as Railroad has not yet consummated financing arrangements ("Financing Arrangements") for the acquisition of the Equipment, it is not in a position to accept delivery of the Equipment under the terms of the Purchase Agreement at this time; and

WHEREAS, Railroad anticipates that the Financing Arrangements will be consummated on or before January 31, 1991, and Railroad, in order that it may take possession of and use the Equipment pending completion of the Financing Arrangements, has requested Vendor to grant Railroad temporary possession of and the right to use the Equipment pursuant to the terms of this Agreement; and

WHEREAS, Vendor is willing to grant such right to use the Equipment upon the terms and conditions hereinafter stated.

* * * * *

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, Vendor and Railroad hereby agree as follows:

1. Vendor will deliver the Equipment to Railroad f.o.b. at the point or points and in accordance with the delivery schedule set forth in Schedule A hereto. Upon delivery of each unit of the Equipment to Railroad under this Agreement, an authorized representative of Railroad will execute and deliver to Vendor a certificate of acceptance in the form of Schedule B

hereto certifying, if such be the case, that such unit appears to have been built in accordance with the specifications therefor and acknowledging receipt of delivery thereof under this Agreement, whereupon Railroad shall assume the responsibility and risk of loss with respect to such unit so accepted and any warranty or other time period set forth in the Purchase Agreement shall commence. Railroad and Vendor agree that an additional certificate of acceptance shall not be required or issued when title to the Equipment passes pursuant to the provisions hereof. The rights of Railroad hereunder in respect of each unit of Equipment shall commence on the date of acceptance of such unit from Vendor and end on the earlier of January 31, 1991, or the date of payment of the purchase price of such unit by Railroad, its designee, or a Trustee (or other financing institution) under the Financing Arrangements. On or before January 31, 1991, Railroad shall at its option acquire, or cause to be acquired by another purchaser, title to the Equipment either by (1) paying the purchase price therefor, (2) providing a third party to pay the purchase price therefor, or (3) directing Vendor to apply against the purchase price all security deposits advanced pursuant to Section 4 hereof.

2. Title to the Equipment shall remain in Vendor, and the Railroad's right and interest therein is and shall be solely that of temporary possession, custody and use under this Agreement. The Railroad or any third party acquiring an interest in the Equipment by reason of a conditional sale, equipment trust or other equipment financing agreement shall not by virtue of this Agreement or the possession and use of the Equipment by the Railroad under or pursuant to this Agreement or of anything permitted to be done by the Railroad hereunder in respect of the Equipment, acquire any title to or ownership of the Equipment, or any unit thereof, and the title to or ownership of the Equipment shall remain solely in Vendor. Transfer of title to and ownership of any unit of Equipment to Railroad or to any purchaser under the Financing Arrangements shall be effected only at the time of delivery by Vendor of a bill of sale to Railroad or to such purchaser. When the purchase price of any unit of Equipment has been paid in full to Vendor and Vendor has delivered an appropriate bill of sale and returned or applied any related security deposit as hereinafter provided, this Agreement shall be terminated automatically with respect to such unit of Equipment without further action by or notice to any party concerned. If requested by Railroad, Vendor shall execute and deliver to Railroad one or more instruments of release and satisfaction to evidence the termination of this Agreement.

3. This "Temporary User Agreement" is a financial arrangement, under which Railroad will have temporary custody, possession and use of the Equipment to be purchased from Vendor, and the risk of loss of the Equipment after acceptance is on Railroad. As between Railroad and Vendor, Railroad shall be

entitled to the depreciation deduction under Section 167 of the Internal Revenue Code of 1986, and Vendor shall not be entitled to such deduction. In no event, however, shall the availability or nonavailability of such deduction affect the obligations assumed by Railroad hereunder or under the Purchase Agreement.

4. Railroad will deposit or cause to be deposited with Vendor pursuant to Vendor's instructions the following amounts: (i) on December 21, 1990, an amount which shall equal the purchase price of such units of Equipment as shall have been delivered and accepted hereunder not later than the close of business on December 20, 1990; (ii) on December 28, 1990, an amount which shall equal the purchase price of such units of Equipment as shall have been delivered and accepted hereunder from December 21 through noon on December 28, 1990; and (iii) within five business days after the acceptance hereunder of any unit of Equipment accepted after noon on December 28, 1990, an amount which shall equal the purchase price of such unit. These deposits will constitute security deposits securing to the Vendor the ultimate payment of the purchase price upon transfer of title to the Equipment. Any funds advanced as security deposits to Vendor by or on behalf of Railroad to secure payment of the purchase price of the Equipment or any portion thereof may be retained and used by Vendor until payment of the purchase price is made in respect of such Equipment or portion thereof, and such deposits shall, at the election of Railroad, either be applied toward the payment of the purchase price or be returned immediately by Vendor to Railroad (or Railroad's designee), pursuant to Railroad's instructions, at the time payment of the purchase price is made. All security deposits advanced by Railroad hereunder shall constitute funds of Railroad temporarily deposited with and in the custody of Vendor, and Vendor shall return to Railroad not later than January 31, 1991, all security deposits which it has not applied to payment of the purchase price pursuant to the provisions of this Agreement.

5. Railroad agrees that it will permit no lien of any kind to attach to the Equipment and that it will (a) indemnify and save harmless Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof (except claims or liabilities based on or arising out of any breach of warranty or any defect in the Equipment), and expenses in connection therewith, including counsel fees, arising out of retention by Vendor of title to the Equipment or out of the possession, use and operation thereof by Railroad during the period when title thereto remains in Vendor, and (b) pay all taxes and assessments which may accrue or be imposed upon or in respect of the Equipment by reason of or in connection with Railroad's possession, use or operation thereof

under this Agreement. Railroad's obligations contained in this paragraph 5 shall survive the termination of this Agreement.

6. Railroad shall, at its own expense, keep and maintain the Equipment in good order and repair at all times. Railroad shall at its option replace or repair any component or part of any unit of the Equipment damaged by any cause during the term hereof or promptly pay to Vendor the full purchase price of each unit of the Equipment lost, destroyed or irreparably damaged during the term of this Agreement.

7. Prior to delivery of each unit of the Equipment to Railroad, it will be numbered with the appropriate road number set forth in Schedule A hereto. Railroad will, throughout the term of this Agreement, keep and maintain plainly, distinctly, permanently and conspicuously marked in stencil on each side of each unit of the Equipment, in letters not less than one inch in height, the following legend:

OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED
WITH THE INTERSTATE COMMERCE COMMISSION

or other words of equivalent import approved by Railroad. Railroad may also cause the Equipment to be lettered with the name, initials or insignia of Railroad or any affiliate of Railroad or in such other ways as are appropriate for convenience of identification of the interest of Railroad therein.

8. Railroad will cause this Agreement, any assignment hereof, and any amendments or supplements hereto or thereto to be filed and recorded with the Interstate Commerce Commission and otherwise as may be required by law or reasonably requested by Vendor for the purpose of protection of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement. If the Equipment is to be used upon lines of railroad in any jurisdiction outside the United States of America, Railroad shall prior to such use, to the satisfaction of Vendor, arrange for the filing, recording or deposit (or any similar action) of all instruments required or advisable to protect the security interest of Vendor in the Equipment in that jurisdiction.

9. Vendor shall have the right to assign its right to receive payment of the purchase price in respect of the Equipment under this Agreement.

10. Railroad shall have the right to assign or transfer its rights hereunder, or in particular units of the Equipment, to any affiliate of Railroad.

11. Vendor agrees that, upon receipt of all payments provided to be made to it under this Agreement by another party,

it shall upon request execute and deliver to or upon the order and pursuant to the instructions of Railroad a bill or bills of sale of the Equipment in customary form with full warranty of title, free and clear of all liens, security interests and encumbrances of any nature arising by, from, through or under Vendor.

12. Except with respect to the matters covered hereby, this Agreement does not amend or modify the terms and provisions of the Purchase Agreement. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Virginia; provided, however, that the parties shall be entitled to all rights conferred by Section 11303 of the Interstate Commerce Act.

13. This Agreement, which is dated for convenience as of November 15, 1990, may be executed in any number of counterparts, each of which shall be deemed to be an original, and such counterparts together shall constitute a single instrument.

IN WITNESS WHEREOF, Vendor and Railroad have caused this instrument to be signed and acknowledged by their proper officials and their respective corporate seals to be hereunto affixed and duly attested, as of the day and year first above written.

GENERAL ELECTRIC COMPANY

By JR Malone

ATTEST:

Ms. Bangler
Attesting Secretary

SOUTHERN RAILWAY COMPANY

By JR Heiskin
Vice President

ATTEST:

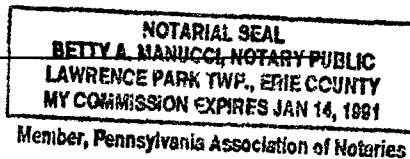
Dr. W. D. Edwards
Secretary

STATE OF PENNSYLVANIA)
) ss:
 COUNTY OF ERIE)

On this 30th day of NOVEMBER, 1990, before me personally appeared J. R. Malone, to me personally known, who, being by me duly sworn, says that he is MGR. N.A. 1000. MKTG. of GENERAL ELECTRIC COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument by him on this date was the free act and deed of said corporation.

Betty A. Nanucci
 Notary Public

My commission expires:



COMMONWEALTH OF VIRGINIA)
) ss:
 CITY OF NORFOLK)

On this 29th day of November, 1990, before me personally appeared JOSEPH R. NEIKIRK, to me personally known, who, being by me duly sworn, says that he is VICE PRESIDENT of SOUTHERN RAILWAY COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of its Board of foregoing instrument by him on this date was the free act and deed of said corporation.

Charles S. Whitson
 Notary Public

My commission expires: AUGUST 31, 1994

SCHEDULE A
to
TEMPORARY USER AGREEMENT
Dated as of November 15, 1990
between
GENERAL ELECTRIC COMPANY
and
SOUTHERN RAILWAY COMPANY

<u>Type of Equipment</u>	<u>AAR Symbol</u>	<u>Plant</u>	<u>Quantity</u>
4,000 H.P. Dash 8-40C Diesel Electric Locomotives	C-C	Erie, Pennsylvania (21 units)	21

<u>Railroad Road Numbers (both inclusive)</u>	<u>Estimated Unit Price</u>	<u>Estimated Total Price</u>	<u>Delivery</u>
SOU 8689-8709	\$1,348,305	\$28,314,405	Erie, PA, in 1990

SCHEDULE B

CERTIFICATE OF INSPECTION AND ACCEPTANCE

The undersigned, a duly authorized representative of Southern Railway Company (the "Railroad"), for the purpose of inspecting equipment that is to become subject to a Temporary User Agreement dated as of November 15, 1990, between the Railroad and General Electric Company (the "Equipment Agreement"), and which is ultimately to become subject to permanent financing arrangements of the Railroad, hereby certifies that the following described unit or units of railroad equipment (the "Equipment"):

Description: Dash 8-40C 4,000 H.P. Diesel Electric Locomotives

Manufacturer: General Electric Company

Quantity:

Road Numbers: SOU

Delivered at: Erie, Pennsylvania

appear to be in good order and condition and to conform to the requirements and provisions of the Equipment Agreement, and have been delivered to and have been inspected and accepted on behalf of the Railroad pursuant to the Equipment Agreement as of the date indicated below.

The undersigned further certifies that there was plainly, distinctly, permanently and conspicuously marked in stencil on both sides of each unit of the Equipment the following legend, in letters not less than one inch in height:

OWNERSHIP SUBJECT TO A SECURITY AGREEMENT
FILED WITH THE INTERSTATE COMMERCE COMMISSION

The execution of this certificate shall not in any way reduce, limit, alter or affect the Railroad's right to pursue any claim, in warranty or otherwise, against the Manufacturer of the Equipment for any defect, whether latent or patent, nor does it abrogate the Manufacturer's obligation to cure any nonconforming equipment which is either knowingly or unknowingly accepted hereby.

Authorized Representative of
Southern Railway Company

Dated: